The Planning Inspectorate

Appeal Decision

Site visit made on 24 January 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09/02/2022

Appeal Ref: APP/R4408/Z/21/3280652
Buzz Bingo, Pontefract Road, Barnsley S71 1AY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Mr Rob Smith of Alight Media Ltd against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2021/0628, dated 28 April 2021, was refused by notice dated 9 July 2021.
- The advertisement proposed is installation of 1 x 48 sheet freestanding digital advertising display unit, measuring 6.4m high x 3.4m wide and comprising pressed metal frame and sealed LED screen.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the proposal on the decision notice and appeal form differs from that given on the application form. I have taken the description from the decision notice and subsequent appeal documents as this accurately represents the proposal

Main Issues

3. The main issues are the effect on:

   - Public safety, and
   - The amenity of the area, with due regard to protected trees.

Reasons

Public Safety

4. The proposed freestanding advertisement would be located in an elevated position on the edge of a car park serving a commercial premises. The site would be located next to Harborough Hill Road which is an A-Class dual carriageway.

5. The proposal would be located close to a slip road leading onto the dual carriageway. The advertisement would be prominent in the views of drivers on the slip road, within an area where drivers should be concentrating on traffic approaching along the dual carriageway. This area is particularly sensitive as

drivers emerging from the slip road would need to be aware of traffic to the side and rear, whereas the display would draw attention to their forward field of vision. Similarly, drivers on the dual carriageway would need to be aware of traffic emerging from the slip road, and the proposed display may distract from this. Although visibility in the area is good and traffic speeds may be relatively low for roads of this nature, the proposal would be located at a point where drivers should be taking particular care as the streams of traffic merge.

6. Whilst advertisements are intended to attract attention, the Planning Practice Guidance (the Guidance) emphasises that advertisements at points such as junctions where drivers need to take more care are more likely to affect public safety. Due to its relationship with the slip road, the advertisement would be an unacceptable distraction for drivers on the highway at a point where they should be taking particular care. As well as the prominent position of the advertisement, its illuminated nature and the changing of images would draw the eye and would add to its unacceptable distracting effect.

7. The appellant submits that the display would be located so that it would not interrupt the visibility of any highways. However, an advertisement does not need to actively interfere with visibility to represent an unacceptable distraction.

8. Whilst drivers may be familiar with digital advertisements and signs, the position of the display as well as the illumination and change in the image would create a distraction when drivers should be concentrating on passing through this complex and sensitive area. Controls over the nature of the image transition and the prevention of moving images would not mitigate for the distracting nature of the display in this context.

9. I have had regard to the various examples of research and advice referred to by the appellant. However, the comments made in respect of drivers glancing at advertisements and attracting a drivers momentary attention adds weight to my concerns in respect of public safety in this sensitive location, even if drivers are taking a reasonable standard of care. The appellant also refers to an analysis of road accident statistics before and after the introduction of digital displays which has not shown an increase in accident levels. However, it has not been demonstrated that the nature of the sign proposed reflects those considered in the research, and I am mindful that road safety implications may have been assessed prior to the signs in the research being put in place. The research and advice referred to by the appellant does not lead me to a different conclusion based on what I have seen and read, including the advice of the Guidance.

10. I have also considered the appeal and Council decisions elsewhere referred to by the appellant with regards to this main issue. However, based on the evidence before me I am not persuaded that they represent a direct parallel to the appeal proposal, including with regard to the highway context of the site or planning history. In any event, I have determined this appeal on its own merits.

11. The Council refers to the maximum luminance value of the proposed display, which it considers would exceed the guidelines as set by the Institute of Lighting Professionals (ILP) Technical Note 5. However, the level of luminance can be controlled by condition. That said, even with such a condition in place,

this would not mitigate my concerns on public safety arising from the location and nature of the display.

12. I conclude that, due to its siting and nature of display, the proposal would have unacceptable harm in respect of highway safety and therefore public safety. The proposal would conflict with the highway safety requirements of policy T4 of the Barnsley Local Plan 2019 (the Local Plan). However, the Regulations require that decisions are made only in the interests of amenity and public safety, as appropriate to each case. Therefore, although I have taken this policy into account, it has not been a decisive consideration in my determination of this appeal.

13. I have found that a suitable condition would mean that the proposal would not conflict with the guidance of ILP Technical Note 5 in respect of luminance. However, this does not lead me to a different conclusion on this main issue.

Amenity

14. The appeal proposal would be in a prominent location close to the dual carriageway. It would be placed in close proximity to a mature tree which is covered by a Tree Preservation Order. As well as contributing to the amenity of the area due to its prominent location in the streetscape, this tree is of substantial amenity value on this side of the dual carriageway in an area dominated by non-descript commercial buildings, vacant plots and highway infrastructure.

15. When approached from the south, the proposed display would be a significant angular barrier in views of this tree, with substantial harm to the contribution it makes to the streetscape. Whilst the extent of the tree canopy may still be apparent around the advertisement, this would be scant mitigation for the effects of the scale and illuminated nature of the proposal placed in such close proximity to the tree.

16. The rear of the sign would also be likely to be apparent as an angular and stark feature when approached from the north, especially when the tree is not in leaf. However, this would be mitigated to a degree by the backdrop of commercial buildings.

17. The appellant contends that the tree would represent a green backdrop to the advertisement helping it to assimilate within the context of the area. However, the proposed advertisement would be an overdominant feature in relation to the tree, and the softening effect of the tree on the proposal carries no more than minimal weight as mitigation.

18. Due to the proximity of the proposal to the tree, associated works may affect the tree canopy and roots. Such works would be subject to separate controls, and the appellant submits that effects could be assessed through an arboricultural impact assessment. Nevertheless, the potential for works associated with the proposal leading to a reduction in the canopy of the tree adds to my concerns in respect of the harm to the amenity of the area.

19. I conclude that due to its location, scale and design, the proposal would lead to significant harm to the amenity value of a protected tree, with commensurate harm to the amenity of the area. The proposal would therefore conflict with policy D1 of the Local Plan in respect of achieving high quality design and placemaking. The proposal would also conflict with the advice of the

Advertisements Supplementary Planning Document 2019 in respect of its damaging impact upon the visual character of the area. However, for the reasons stated previously in respect of the Regulations, whilst I have taken account of this policy and advice they have not been a decisive consideration in my determination of this appeal.

Other Matters

20. I am mindful of the benefits of the proposal, including economic benefits from site investment, jobs within the sector and driving wider consumer demand. However, these benefits would not outweigh the significant harm I have identified to public safety and amenity.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR